

**PLANNING AND ZONING BOARD
JANUARY 10, 2007**

1. ROLL CALL

The meeting was called to order at 7:00 p.m. Board members present were Chair Mike Bender, Vice-Chair Scott McLaughlin, Philip Busey, John Stevens and Mimi Turin. Also present were Attorney Julie Klahr, Planning and Zoning Manager Bruce Dell, Planners David Abramson, Phil Bachers and Ingrid Allen, and Board Secretary Janet Gale recording the meeting.

Monroe Kiar bade farewell to the Boardmembers and spoke of the pleasant working relationship he had experienced with this Board which he believed was a credit to the community. He thanked the Boardmembers for their service to the Town.

2. APPROVAL OF MINUTES: November 22, 2006

Mr. Stevens made a motion, seconded by Mr. Busey, to approve the minutes of November 22, 2006. In a voice vote, all voted in favor. **(Motion carried 5-0)**

3. PLATS

3.1 P 6-2-04, Davie Estates, vacant land at SW 58 Street and SW 61 Avenue between Stirling Road and Griffin Road (R-1) **(tabled from November 22, 2006)**

Chair Bender advised that staff had requested to table this item to March 14, 2007.

Vice-Chair McLaughlin so moved, seconded by Mr. Stevens. In a voice vote, all voted in favor. **(Motion carried 5-0)**

3.2 P 5-3-05, Colonnade at University, 4640 University Drive (Griffin Corridor District, University Drive Node)

Jay Evans, representing the petitioner, was present. Ms. Allen summarized the planning report.

Mr. Busey asked how vehicles were to access the parking lot from University Drive. Mr. Evans indicated that there was a pass-thru access under the building.

Mr. Stevens made a motion, seconded by Ms. Turin, to approve. In a roll call vote, the vote was as follows: Chair Bender – yes; Vice-Chair McLaughlin – yes; Mr. Busey – yes; Mr. Stevens – yes; Ms. Turin – yes. **(Motion carried 5-0)**

4. PUBLIC HEARING

Vacation of Right of Way

4.1 VA 7-1-05, Strutt/Gorton, 5951 Orange Drive

Linda Strutt, representing the applicant, was present. Mr. Abramson summarized the planning report.

Chair Bender asked if anyone wished to speak for or against this item. As no one spoke, the public hearing was closed.

Mr. Stevens made a motion, seconded by Mr. Busey, to approve. In a roll call vote, the vote was as follows: Chair Bender – yes; Vice-Chair McLaughlin – yes; Mr. Busey – yes; Mr. Stevens – yes; Ms. Turin – yes. **(Motion carried 5-0)**

Variance

4.2 V 10-1-06, Lessard/Lessard, 8005 SW 29 Street (R-3)

Deborah Lessard, the applicant, was present. Ms. Allen summarized the planning report.

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Ms. Turin questioned what the original side setback had been. Ms. Allen responded that it originally was 7.5-feet. Because there was a pool, the petitioner would either have to increase the fence height or enclose the pool. Ms. Lessard indicated that since the screening was destroyed by a hurricane, she wanted to repair the structure and replace the screen; however, the side setback had subsequently changed over the years, thereby requiring a variance.

Vice-Chair McLaughlin asked if there was a homeowner's association involved. Ms. Lessard responded that there was not; however, she provided letters of approval from the neighbors who would be impacted.

Chair Bender asked if anyone wished to speak for or against this item. As no one spoke, the public hearing was closed.

Mr. Stevens made a motion, seconded by Vice-Chair McLaughlin, to approve. In a roll call vote, the vote was as follows: Chair Bender – yes; Vice-Chair McLaughlin – yes; Mr. Busey – yes; Mr. Stevens – yes; Ms. Turin – yes. **(Motion carried 5-0)**

Special Permits

4.3 SE 2-2-06, Laystrom & Voigt/Iryn Farm, LLC, 5241 SW 82 Avenue (CF)

Earlier in the meeting, Chair Bender advised that the petitioner had requested to table this item to January 24, 2007.

Mr. Stevens so moved, seconded by Mr. Busey. In a voice vote, all voted in favor. **(Motion carried 5-0)**

4.4 SE 2-3-06, Douglas/Cosman, 3051 State Road 84 (M-2)

Gene Douglas, representing the petitioner, was present. Mr. Bachers summarized the planning report.

Chair Bender asked if anyone wished to speak for or against this item. As no one spoke, the public hearing was closed.

Chair Bender had it clarified that the request was for 18-months.

Mr. Stevens made a motion, seconded by Vice-Chair McLaughlin, to approve. In a roll call vote, the vote was as follows: Chair Bender – yes; Vice-Chair McLaughlin – yes; Mr. Busey – yes; Mr. Stevens – yes; Ms. Turin – yes. **(Motion carried 5-0)**

4.5 SE 11-1-06, Knapik/AN Imports on Weston Road, Inc., 4050 Weston Road (BP)

Heidi Davis, Mike Gai and Brad Hodgen, representing the petitioner, were present. Mr. Abramson summarized the planning report.

Chair Bender asked about the length of time for which this request was being made. Mr. Abramson indicated that it was for 12 months. Since vehicles had been on that lot for several years on and off, Chair Bender asked if there was a history of Code violations. Mr. Dell responded that there had been violations and this request was part of the process for getting them cleaned up. Chair Bender inquired if there had been an environmental study done on the property. Mr. Abramson responded that there had not been a study done in coordination with this application. Mr. Dell advised that he expected one to be done as part of the site plan process.

Mr. Busey asked what was meant by the perimeter grass area which was to be protected as stated in the staff report. Mr. Abramson explained that that was to be the buffered landscape area.

Ms. Davis provided a brief presentation to better explain the intent of the request which was a step in the process of developing a permanent parking lot. She indicated that the special permit request was for 12 months in order to complete the project.

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Chair Bender disclosed that he worked for Rick Case Honda. He indicated that he had no problems with the use for this designated area; however, he did have a problem with people violating the Code and then asking for special permits after the fact. Chair Bender asked how the petitioner intended to deal with the removal of oil and transmission fluid which tended to leak from used cars. Mr. Gai indicated that the used cars were checked thoroughly before being placed on the lot and other than checking for leaks on a daily basis, he did not know what else could be done when parking on stabilized sub-grade. Chair Bender wanted to make sure that the ground water would be protected since used vehicles would be stored on the lot as well as new vehicles. He asked if the petitioner would accept the condition that they would be responsible for any pollutants that may be found in the ground water in the future. Mr. Gai answered affirmatively.

Mr. Busey expressed his concerns and preferred that a problem be exposed sooner rather than later and asked if there was a way to detect oil leakage. He asked if the lot would be screened temporarily with shrubs. Mr. Gai responded that along Weston Road, there was thick growth as well as along the canal. The I-75 site sat so high, however, that shrubs would be of little use.

Mr. Dell suggested that the special permit be for six months with a six-month extension in order to expedite the project. Ms. Davis countered that any delays would not be on the applicant's part, but was needed by the Town to process permits.

Mr. Dell advised that the Fire Department had an issue about how they were going to get in there should there be a fire. Ms. Davis responded that the issue was addressed in DRC comments and that they did drive aisles, access, provided a hydrant, and did studies on compaction all as part of the special use permit.

Chair Bender asked if anyone wished to speak for or against this item. As no one spoke, the public hearing was closed.

Chair Bender suggested that an environmental study be made before granting the special permit, since cars had been parked on the lot for a very long time. Although he would go along with a 12-month permit, he would like a second environmental study made six months down the road. If at that time there was found to be cause and effect, it would make the permit null and void.

Mr. Busey wanted to understand what the consequences would be should there be an environmental problem. Mr. Dell stated that the consequences would be that the cars would have to be removed. Mr. Busey could foresee the Environmental Protection Agency becoming involved and did not want to delay the issue and leave things unsettled.

Chair Bender reiterated his position that he would like an independent study made first to be sure that there was not a problem already. He had no trouble with granting a 12-month permit with the contingency that there be an initial inspection and a second inspection in six months. In that way if a problem was created, it could be resolved before it became a big problem.

Mr. Dell asked who would be responsible for the cost of the study. Chair Bender responded that the Town would select the inspector and the petitioner should pay for it. Mr. Dell suggested that there may be a way of installing monitoring wells as a way to examine the situation.

Vice-Chair McLaughlin commented that the Board was "reaching." He believed inspections would be made in the permitting process, and although what they had done before was not right, they were trying to comply with the Town, and that they should be allowed to move on. Vice-Chair McLaughlin believed the Town was giving them an avenue to comply, that an inspection should be made and if spills were found, they should be cleaned up before proceeding with the laying of mulch.

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Vice-Chair McLaughlin made a motion, seconded by Mr. Stevens, to approve a temporary special permit for 12 months subject to Town's Code Compliance Officer or other Town representative taking a visual observation of the site to look for any oil spills that may be hazardous and for the applicant to clean up any of those spills before proceeding with the installation of the mulch; and that the applicant accepted the conditions made by the Development Review Committee and would continue to comply with those conditions. In a roll call vote, the vote was as follows: Chair Bender – no; Vice-Chair McLaughlin – yes; Mr. Busey – yes; Mr. Stevens – yes; Ms. Turin – yes. **(Motion carried 4-1)**

Chair Bender asked that staff relay the Board's concerns regarding an environmental study when this item was presented to Council.

5. OLD BUSINESS

Mr. Stevens reiterated his position regarding the "Staff Findings of Fact" within the Staff Report. He disagreed with the staff's role in the findings of fact and that it was up to the Board to determine. Mr. Stevens was concerned that the Town could be sued and Ms. Turin agreed. Rather than staff inserting a definite as in will/will not, the space should be left blank and the Board should be charged to hear evidence and testimony and make a determination that was or was not in support of the applicant. Mr. Dell indicated that his division would work with the attorneys to come up with a proper mechanism. Mr. Busey agreed and added that sometimes the "terms used" did not fit the situations.

6. NEW BUSINESS

There was no new business discussed.

7. COMMENTS AND/OR SUGGESTIONS

Vice-Chair McLaughlin commented that in an unrelated Development Review Committee's report which he had received from the Engineering Department, once again the "traffic calming fund" had been mentioned. Mr. Dell apologized and assured Vice-Chair McLaughlin that if he had reviewed the report, the fund would not have been in it.

8. ADJOURNMENT

There being no further business and no objections, the meeting was adjourned at 8:01 p.m.

Date Approved: _____

Chair/Board Member